

UPPER HUTT CITY COUNCIL
PROPOSED (PRIVATE) PLAN CHANGE 40: WALLACEVILLE

MINUTE 4 OF HEARING COMMITTEE

Introduction

1. Further to our directions in Minute 3, we have now received the further information we requested of the Council and the Plan Change Requestor following the formal hearing adjournment. As indicated in that previous minute, there is now a need for us to signal what is required for us to complete our deliberations and close the hearing.
2. Before we turn to that, however, we wish to thank the parties for their efforts in responding to our information requests. In this respect, our further evaluation of the appropriateness of the plan change has been made much simpler, and we are grateful for that.
3. Having reviewed the information provided since the close of the hearing, we are satisfied that we have all information required to complete our deliberations, with two exceptions:
 - (a) the drafting of proposed policies¹ in Chapters 4 and 6 relating to subdivision and development being consistent with the proposed Structure Plan; and
 - (b) the drafting of the ‘new’ restricted discretionary activity conditions for access to Alexander Road.
4. This minute addresses these two matters in turn along with some other procedural matters. We signal at this early stage that we believe the resolution to these matters can be addressed in writing. In this respect, we do not envisage there will be a need to reconvene formal proceedings.

Drafting of Structure Plan Policies

5. Firstly, we acknowledge the joint statement’s proposed deletion of the site-specific policy relating to the future development of ‘Area B,’ which has resulted in the condensing of three policies into two (in Chapter 4). This amendment is logical to us, given the revised approach for Area B more broadly.
6. However, the resulting two policies applying in Chapter 4 and the ‘sister’ policies in Chapter 6, in our view, still contain an inherent tension between:
 - a. on one hand, requiring “consistency with” the structure plan; and
 - b. on the other, expressly enabling a departure from that approach (albeit only in certain circumstances).

¹ Policies 4.4.14, 4.4.15 (previously 4.4.16), 6.4.6 and 6.4.7

7. We see the merit in enabling some departure from the structure plan (as envisaged by Policies 4.4.15 and 6.4.7) as such proposals *might* result in an outcome better than (or at least no worse than) those specified in the Structure Plan. However, this notion is expressly contrary to the ‘mandatory’ wording in the preceding policies requiring consistency with the structure plan.
8. At the very least this could create difficulties for future decision-makers. More to the point, we see no reason why this tension cannot be resolved more clearly at this stage.
9. At the same time, the tension also extends to the methods proposed to implement the policies – and notably, the outcomes in the Structure Plan. We signalled an example of this in Minute 3, being the ‘encouragement’ approach for high density dwellings in the Urban Precinct. Taking this a step further, the issue as we see it is that the policy framework creates an expectation that development “shall be consistent with” the outcomes in the structure plan; however, the outcome in this case is to encourage development of a certain type – not to require it.
10. Compounding this, we note the outcomes in the Structure Plan are not engrained entirely in the corresponding permitted activity rules and standards in *all* cases. In other words, the permitted activity rules may not be consistent with the outcomes in the Structure Plan.
11. In essence, the above suggests to us that the policies have been written predominantly as assessment tools for consents, rather than as implementation tools for overarching objectives. We could understand that approach, and the need for two separate policies, if (for example) the proposed rule framework was predicated on being consistent with the Structure Plan to retain restricted discretionary status – but this is not the case.
12. The planners have told us at the hearing, and subsequently in the recent joint statement, that the proposed methods – including the encouragement approach for high density housing – are the best approach to adopt. In that case, this raises the question in our minds that perhaps the policies are the problem, and in particular the ‘mandatory’ wording of the policies we referred to above.
13. To be clear, we are not signalling discontent with the planners’ agreed preference for the methods; rather, we have some reservations as to whether the policies best support those methods.
14. To assist our deliberations on this matter, we would like the conferencing planners to confer again with a view of offering us some options for resolving the policy tensions we have outlined above. We accept that there are multiple ways of achieving this, but perhaps it would assist if we offered some suggestions for discussion purposes. In this respect, the parties might want to consider:
 - a. amalgamating policies 4.4.14 and (as revised) 4.4.15 and also amalgamating 6.4.6 and 6.4.7;
 - b. ‘softening’ the mandatory language in policies 4.4.14 and 6.4.6; and
 - c. deleting Policies 4.4.14 and 6.4.6 which require consistency with the Structure Plan, and specifying in (amended) Policies 4.4.15 and 4.6.7 that ALL subdivision and development (irrespective of whether it is “consistent with the Structure

Plan” or not) will be consistent with the bulleted outcomes listed under those policies.

15. For completeness, we record that:

- a. the provision of the revised policy framework by the conferencing planners is on a without-prejudice basis to assist out deliberations;
- b. notwithstanding that, we encourage the planners to also provide their professional view on the appropriateness of the revised framework requested above and their preference or otherwise for this approach compared to the latest joint statement; and
- c. both of these steps are to assist our evaluation under s32AA of the most appropriate policies to implement the objectives and the most appropriate rules to implement the policies.

Alexander Road

16. The planners have proposed new activity controls and standards which trigger a fully discretionary activity resource consent for new lots/dwellings gaining direct access to Alexander Road. As with the discussion on the policy approach above, we see the logic in these proposed amendments.
17. That said, our review of the proposed amendments has identified a potential unintended consequence – being that any new road allotment (including roads signalled on the Structure Plan) which is to access Alexander Road would also trigger the higher activity status in the same way new allotments or dwellings directly accessing the road would.
18. If this is unintended, and the parties agree that the new rule should not be triggered by proposed roads, then this should be conveyed to us and reflected in the rule framework. On the other hand, if the intent is to capture ALL access, then the proposed wording may be appropriate.

Timetable

19. As signalled above, we do not intend to reconvene formal proceedings, and we prefer that the above matters be addressed by the conferencing planners in writing. This additional information should be provided by 5:00pm on **Tuesday 4 August**. As with all other information exchanges, this material will be circulated to all parties (however, we note that we do not anticipate that the involvement of any other parties will be required).
20. We also require for our deliberation purposes an annotated copy of the amendments attached in Appendix 1 of the recent joint statement which clearly distinguishes the proposed amendments as notified, as amended in the first joint statement (pre-hearing) and as amended in the most recent joint statement. This should be provided by the morning of **Tuesday 4 August**, when we propose to begin our deliberations.

21. We will also need a version of the District Plan Chapters themselves, annotated with the most recent changes agreed in the recent joint statement. However, this can be provided later next week, and no later than 5 pm on **Monday 10 August**.
22. Parties are also advised at this time that there may be a need for us to obtain additional electronic copies of plans, provisions, evidence, submissions etc to assist with the writing of our Recommendation. However, these requests will not likely be broadcast to all parties.
23. Finally, we remind the Ministry for Primary Industries that we wish to take up their offer to visit its site on Ward Street. Our hearing advisor, Mr Jones, will make arrangements early next week.
24. If any party wishes to seek further clarification around the current process or the proposed timetable, please contact UHCC's Planning Technician, Ms Coralie Barker (ph. 04 527 2858 or email planning@uhcc.govt.nz) in the first instance.

DATED this 30th day of July 2015



DJ McMahon
(Independent Commissioner)

On behalf of Cr J Gwilliam (Chair) of the Hearing Committee